

Application No.: 09/961091

Case No.: 54404US008

### Interview Summary

Applicants' representative, Christopher Gram, gratefully acknowledges the courtesy of Examiner Lewis in granting a telephonic interview After Final conducted April 25, 2005. Claim 36 was discussed with reference to U.S. Patent No. 5,038,789 ("Dowdy") and U.S. Patent No. 5,895,380 ("Turi"). Agreement was reached in principle on amendments to claim 36 that would result in the application being allowed.

The remarks provided below reiterate Applicants' positions with respect to the cited art that were presented during the interview. The amendments submitted herewith are believed to address the remaining concerns of Examiner Lewis.

### Remarks

Claims 36 to 60 are pending and under consideration.

Claims 36 and 51 are amended herein.

Applicants respectfully request reconsideration of the application in view of the amendments and the following remarks.

### Amendments to the Claims

Claims 36 and 51 have been amended to recite that the plurality of channels extends *along* the microstructure-bearing surface and permits transport of fluid between a medical treatment site *on a patient or user* and a remote area.

The amendments are fully supported by the specification. The amendment reciting that channels extend along the surface of the fluid control film component is supported at, for example, page 8, lines 12-16. The amendment reciting that the medical treatment site is a site on a patient is supported, for example, at page 31, lines 4-11; from page 34, line 3 through page 35, line 24; from page 36, line 15 through page 38, line 25; and Figure 4a.

No new matter is introduced by these amendments.

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**§ 102 Rejections**

Claims 36-38, 49-51, 59, and 60 stand rejected under 35 USC § 102(b) as being anticipated by Dowdy. Claims 36-38, 45-48, and 51-54 stand rejected under 35 USC § 102(b) as being anticipated by Turi. As claims 36 and 51 are the only independent claims and the amendments to method claim 51 conform to those made to article claim 36, the remarks set forth below that specifically refer to claim 36 apply equally to claim 51 and the remaining claims, each of which depends, directly or indirectly, from claim 36 or claim 51.

Applicants submit that Dowdy fails to set forth each and every element of claim 36. Specifically, Applicants submit that Dowdy fails to set forth “a plurality of channels that permit transport of fluid between a medical treatment site and a remote area.”

The Office Action notes that Dowdy teaches a fluid pouch 14 that includes a fluid collection portion 20 and an incise insert 21, in which the fluid collection portion has a micro embossed surface (column 2, lines 60-64).

Applicants assert that Dowdy fails to set forth “a plurality of channels that permit transport of fluid between a medical treatment site and a remote area” because the micro embossed surface does not provide fluid communication between a remote area and a medical treatment site – i.e., it does not provide fluid communication between the fluid pouch 14 to the location at which the patient (i.e., the medical treatment site) can be accessed. The bottom layer 18 of the fluid collection portion of the Dowdy device has an approximately square shaped opening surrounded by a textured reinforced area 40 (column 3, lines 6-11). The textured reinforced area 40 – and, therefore, the boundary of the micro embossed surface – is separated from the medical treatment site by the incise insert 21, which contains the incise fenestration (see Fig. 5) through which the medical treatment site is accessible. The textured reinforced area 40 and the incise insert 21 interrupt any possible fluid transport between the micro embossed surfaces of the fluid collection portion 20 and the medical treatment site accessible through the incise fenestration.

The paragraph at column 3, lines 12-31 describes the incise insert in detail, but contains no disclosure of an embossed surface or any other structure that could be considered a channel according to claim 36. Thus, Dowdy fails to set forth channels in the incise insert 21 that would

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permit the continuation of fluid transport between the medical treatment site and the boundary of the collection portion 21. Consequently, Dowdy fails to set forth channels that permit fluid transport from the medical treatment site (i.e., the patient accessible through the incise fenestration) to a remote area (i.e., the fluid collection portion).

In order to expedite prosecution, however, Applicants have amended claim 36 to recite that the medical treatment site is a body location on a patient or user and not a location within the medical article.

Applicants submit that Turi also fails to set forth all of the elements of claim 36. Turi teaches perforations that are formed *through* film 50 that are characterized as channels in the Office Action. Applicants submit, however, that the channels recited in claim 36 are described in Applicants' disclosure as being "channels that extend along a major surface" of the fluid control film component (page 8, lines 12-14) and, therefore, exclude the perforations of Turi. In order to expedite prosecution, Applicants have amended claim 36 to clearly recite that the channels extend *along the surface* of the fluid control film.

### **§ 103 Rejections**

Claims 39-44 stand rejected under 35 USC § 103(a) as being unpatentable over Turi. Each of claims 39-44 depends, directly or indirectly, from claim 36. Because claim 36 is believed to be allowable for the reasons set forth above, each of claims 39-44 is believed to be allowable for at least all of the reasons that claim 36 is believed to be allowable.

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Conclusion

In view of the above, Applicants submit that the application is in condition for allowance. Reconsideration of the application and allowance of claims 36-60 is requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that doing so may assist prosecution of this application.

Respectfully submitted,

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Date

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